IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1419 of 2007

Kumar .. Petitioner

Vs

1. State of Tamil Nadu,
   rep. by its Secretary to
   Government,Home Department,
   Fort St. George, Chennai-9.

2. The District Collector and
   District Magistrate
   Kancheepuram District
   Kancheepuram.

3. The Superintendent
   Central Prison
   Puzhal, Chennai.66. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.V.Sairam
For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

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O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, who is the father of the detenu, Thiyagu @ Thiyagarajan, who was incarcerated by order dated 6.6.2007 of the second respondent under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic

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Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a Goonda, has preferred this writ petition for issue of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 6.6.2007 in his Office Memo No.40/BDFGISSV/2007 against the petitioner's son, Thiyagu @ Thiyagarajan, now confined at Central Prison, Puzhal, Chennai, set aside the same and to direct the respondents to produce the above said detenu before this Court and set him at liberty.

2.1. On the basis of a complaint lodged by one Krishnan that on 16.5.2007 at about 10.00 pm, the detenu threatened him at the knife point and forcibly took Rs.100/- from his shirt pocket and also threatened the public who came for his rescue that they would be killed and hurled the bottles taken from the nearby bunk shop in the road, which scattered all over the roadside and also made them to run on all sides seeking shelter resulting in traffic dislocation, the detenu was arrested and a case was registered in Crime No.258/2007 on the file of Vishnu Kanchi Police Station, for the offences punishable under Sections 341, 294(b), 394 and 307 IPC.

2.2. The second respondent, taking note of the above case as a ground case and finding that there are five adverse cases registered against the detenu in Crime Nos. 226/2006, 572/2006, 716/2006, 780/2006 and 4/2007 on the file of Vishnu Kanchi Police Station for the offences punishable under Sections 341, 294(b), 506(ii), 307, 457, 380, 323 and 324 IPC, having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order and public health, ordered his detention dubbing him as a Goonda.

3. The learned counsel for the petitioner challenges the impugned order of detention dated 6.6.2007 on the main ground of defective translation in the accident register found at page Nos.188 and 189 (English and Tamil versions respectively). He submits that in the English version, it is stated that,

> 'alleged to have assaulted by a known person with sharp object (knife)'.

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whereas in the Tamil version, the said statement has been omitted to be translated. According to the learned counsel, in view of the above defective translation, the detenu was not in a position to make an effective representation and hence the order of detention vitiates.

4. Communicate is a strong word. It requires that sufficient knowledge of the basic facts consisting the grounds should be imparted effectively and fully to the detenu in writing in a language which he understands, so as to enable the detenu to make a purposeful and effective representation. Where the grounds are not properly translated, it would tantamount to not serving the grounds to the detenu and would thus vitiate the detention ex facie.

5.In the instant case, as rightly pointed out by the learned counsel for the petitioner, a perusal of the materials placed before us would disclose that there is a defective translation in the accident register furnished to the detenu in the Tamil version. Failure to furnish the properly translated version of the accident register would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective representation against the order of detention. Hence the order of detention is vitiated.

Accordingly, the habeas corpus petition is allowed and the order of detention dated 6.6.2007 is set aside. The detenu Thiyagu @ Thiagarajan is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary,
   State of Tamil Nadu,
   Home Prohibition and Excise Department,
   Fort St. George, Chennai-9.

2. The District Collector and
   District Magistrate
   Kancheepuram District
   Kancheepuram.

3. The Superintendent
   Central Prison
   Puzhal, Chennai.

4. The Joint Secretary to Government,
   Public (Law and Order) Department,
   Fort Saint George, Chennai-9

5. The Public Prosecutor
   High Court, Madras.

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